



CITY OF MANCHESTER

PLANNING AND COMMUNITY DEVELOPMENT

Planning & Land Use Management
Building Regulations
Community Improvement Program
Zoning Board of Adjustment

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MANCHESTER ZONING BOARD OF ADJUSTMENT PUBLIC HEARING / BUSINESS MEETING MINUTES

Thursday, March 12, 2020 – 6:00 p.m.
City Hall, Third Floor – Aldermanic Chambers

Board Members Present: Chairman Robert Breault, Vice Chairman Jose Lovell, Michael Simoneau, Joe Prieto

Alternates Present: Alderman Keith Hirschmann, Anne Ketterer

Excused: Alderman Jim Roy, Guy Guerra

City Staff Present: Michael Landry, Deputy Director of Building Regulations

- I. The Chairman calls the meeting to order and introduces the Zoning Board Members and City Staff.

Chairman Breault announced that Alderman Keith Hirschmann would be a voting Member this evening.

Michael Landry announced that case ZBA2020-009, 43 Highwood Drive, which is on the agenda this evening, would be heard at a later date and there would be further notice provided.

II. **PUBLIC HEARING:**

(Current Items)

1. **ZBA2020-005**
300 Porter Street, R-1B Zoning District, Ward 7

Alexander Lambroulis proposes to maintain a deck with a 2.8' side yard setback where 3.8' was previously allowed by variance and with a 16' front yard setback where 20' is required, maintain a detached deck located 1' from the rear and side property lines where 4' is required and where the detached deck and shed in the rear yard account for 35.8% lot coverage by accessory structures in the rear yard where 25% is allowed, maintain a driveway width of 28' where 24' is allowed, as well as maintain two parking spaces within the front yard setback and four parking spaces within 4' of a property line or building and seeks a variance from sections **6.03(C)** Side Yard Setback, **6.03(A)** Front Yard Setback, **8.29(A)3** Accessory Structures and Uses (3 counts), **10.08(C)** Driveway Width, **10.09(B)2** Parking Setbacks (2 counts) and **10.09(B)** Parking Setbacks (4 Counts) of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through January 21, 2020.

Alexander Lambroulis of 300 Porter Street said these different things that he is hoping to maintain are improvements that were made were for his mother who has passed. She hired people to do all the work assuming they would get all the permits. He said they clearly did not get permits and he is hoping to maintain all of what is listed. He said this was not done intentionally, they put their trust in all of these people and before his Mother passed, she wanted to make these improvements so he could be able to maintain the area the way it was.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those either in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Vice Chairman Lovell said there is a section of pavement that Mr. Lambroulis said he would be willing to take out and he asked Mr. Lambroulis if he could describe that for the Board. Mr. Lambroulis said throughout this whole process they found that there is actually land in front of the house that belongs to the City that they weren't previously aware of, and there used to be gravel there and his mother paved from the house to the street. They realized that through this whole process that probably about four of those feet belong to the City. He said they agreed that they would cut back four feet in. He said he was speaking with Glenn Gagne and he said they could leave that path, almost like a sidewalk and then after that, on his property, make a permeable land so not parking would be there on the side of the house anymore. Chairman Breault said then they are going to remove the bulk of that asphalt. Mr. Lambroulis said yes. He said he didn't know the dimensions but it is marked off where they are going to remove it and turn it into a flower box area or an area with bushes of some sort.

Chairman Breault said there were no abutters who came to speak against this application.

He said he visited the site and said he can attest that it is somewhat in character with the neighborhood. He said he didn't think this would diminish any property values. He said he thinks substantial justice would be done and it would be a hardship to remove more than what they are agreeing to remove and they need a driveway.

Anne Ketterer said a lot of times the side yard setbacks requirements are to protect the neighboring house, but in the instance of this lot, the neighbor's house adjacent to the a Mr. Lambroulis's decks really is quite a distance away and that is probably why the abutter isn't here. They probably don't care. She said she thinks they are unaffected and it would be a hardship to remove.

Michael Simoneau said with respect to the hardship, it is probably one of the smallest lots in the neighborhood and if it was a lot a little bit bigger in square footage he doesn't think Mr. Lambroulis would have half of these issues. He said he concurs with Chairman Breault.

Michael Simoneau made a motion to grant the following variance counts for case ZBA2020-005, 6.03(C) Side Yard Setback, 6.03(A) Front Yard Setback, 8.29(A)3 Accessory Structures and Uses (3 counts), 10.08(C) Driveway Width, 10.09(B)2 Parking Setbacks (2 counts) and 10.09(B)Parking Setbacks (4 Counts) which was seconded by Keith Hirschmann.

Yeas: Breault, Lovell, Simoneau, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

2. **ZBA2020-009**
43 Highwood Drive, R-1A Zoning District, Ward 2

Elizabeth Nolin, Esq. (Agent) proposes to construct a 24' x 24' one-story, two-stall detached garage with a side yard setback of 13' where 20' is required, also maintain one front yard parking space and seeks a variance from sections **8.29(A)2 Accessory Structures and Uses** and **10.09(B) Parking Setbacks** of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through February 24, 2020.

Michael Landry announced that this case will be heard at a later time and additional notice will be provided.

3. **ZBA2020-010**
117 Heather Street, R-1A Zoning District, Ward 1

Alan Chong proposes to convert a single family home to a museum and seeks a variance from section **5.10(J)5 Museum** of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through February 26, 2020.

Attorney Bradford Cook said he is an attorney with Sheehan, Phinney, Bass and Green and he has the honor to represent the Currier Museum of Art which is the applicant. He said he also, coincidentally, have lived for 45 years at 150 Heather Street, which is across the street from the property and he is an abutter. Attorney Cook said as the Board has probably read and seen in their visit to the property, Manchester is very lucky to have two significant artistic and architectural gems in the Frank Lloyd Wright houses on Heather Street, one of which is the Zimmerman House which for 30 years has been owned by and maintained by the Currier as a Museum with tours to it. They are not parking on Heather Street. He said they went through this process 30 years ago and he was the attorney before the Board for that. For 30 years, we have enjoyed a wonderful relationship on Heather Street with the Currier maintaining the Zimmerman House in the wonderful fashion of restoring it and maintaining the original architecture.

Attorney Cook said this past year, as you have probably read in the press, Mr. Kalil passed away and the Currier was able to purchase the Kalil House which is the other property and is in question tonight. He said both through action of its Board of Trustees and a generous donor they have the opportunity to add it to the tours that are made. He said the way the tours work is that people go to the Currier museum, get on a bus and come up to the property. They do not come in their own cars and they do not park and then tour the Zimmerman house. Up until now, they have gone by the Kalil House and had it explained to them and then gone by and return to the Currier Museum. He said the request is that the exact same routine that goes on at the Zimmerman House, which the Board allowed all those years ago, be allowed for the Kalil House on the same terms.

Attorney Cook said Alan Chong who is the Director of the Currier Museum was present if the Board had any questions. He said they wouldn't go through all the pictures and articles which they supplied, but it is a very exciting thing for Manchester and they are asking for this variance so they can basically have the best use of the property, which is a Museum. The hours are limited and there are no late night activities.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those either in favor of or in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Chairman Breault said the Board received an email correspondence with some concerns regarding parking in front of one of the abutter's homes which is across from the Museum. He asked Attorney Cook if he was aware of that. Attorney Cook said he believes that was from Mrs. Goldner who is his next door neighbor. He said they had representatives of the Currier Museum talk with her and assured her that what the parking situation is and it is his understanding is that she is supportive of this application having had that explanation. Attorney Cook said the Currier has been very good about having neighborhood meetings to explain the purchase, the plans and the activities to the neighborhood which has always been very supportive of the Zimmerman House and he believes it is quite supportive of this.

Alderman Hirschmann asked Attorney Cook if he considered that matter resolved because he read the letter and Mrs. Goldner said that it is an exciting thing happening, but because of the curiosity factor, some people are coming by and it is affecting her lawn. Attorney Cook said they don't know who parks where. He said he has sprinkler heads on his property, too and when it gets to be winter time, they are vulnerable to anybody. He said the Currier Museum itself and the Kalil House itself has not been the cause of any parking. At the time of the purchase, there were a lot of workmen working on getting the Kalil family out of there. They had some repairs done and when workmen are there from the Currier, they park on the premises because there is a driveway and an overhang. Any of their people park there. He said obviously, they are very careful. When they had the Zimmerman House before the Board, they had abutters who at the time asked where are the volunteers going to park and where are the people going to park and the Currier agreed to and arranged that the one or two cars that come for volunteers park on either North Adams Street or Ray Street which are not as actively used as say Chestnut Street would be or Heather Street would be. That is generally just one car so he believes Mrs. Goldner is satisfied. He said he knows that it has never been an issue for any of the rest of the abutters.

Chairman Breault said the Zimmerman house has a chain going across the driveway and he asked if that was the intention to do the same at the Kalil House. Alan Chong said absolutely the same. Chairman Breault said it is really a controlled access and as far as the Currier is concerned, it is going to be very controlled with bussing instead of multiple vehicles.

Vice Chairman Lovell said he has had the pleasure of taking one of the tours of the Zimmerman House and then drive by the Kalil House and he has seen how orderly it is and it doesn't really seem to negatively affecting the neighborhood from what he saw. He said it seems that they don't have the Museum yet and they have people coming to look. It is curiosity because it has been in the papers. He said it almost seems like having a Museum and giving somebody the opportunity to come through a tour might even reduce that curiosity factor having people just come to visit on their own. Attorney Cook said the marketing effort by the people who listed the property on the Kalil House, he has to say, was one of the biggest national marketing efforts he has ever seen. It was on national TV, it was on national radio and public radio. It was a remarkable thing to see. If anything, they believe it has enhanced the neighborhood and not hurt the neighborhood. He said of course, we all think our houses are worth what the Kalil house was worth but that might not be true. He said he has been there long enough to have known Dr. and Mrs. Zimmerman and Dr. and Mrs. Kalil and seeing the entire evolution. He said not only would they be very happy with what happened, but the neighborhood, he thinks is enhanced by this effort.

Anne Ketterer said she is an architect so she appreciates the work of Frank Lloyd Wright and she would just like to second what Attorney Cook said. She said we are lucky to have two homes in our community. She said she would like to say one quick thing about the parking. She said the marketing effort brought a lot of people to the house as introduction to it going on the market or being up for sale. She said she was one of the people that parked on the street because basically what happened is, they had an open house for realtors. She said she is not a Realtor but her friend is and she said, hey Anne, you are an architect, why don't you

come with me and check it out and take a tour. She said she did take a tour and it is lovely. She said there was all this parking and the abutter is not wrong, but she thinks what the abutter is incorrect about is that that parking was not associated with the Currier Museum. She said she has taken a tour of the Zimmerman House and several of us have and we don't park anywhere near. We park at the Museum. She said she thinks that the abutter's concerns are sort of moot by the Currier having been the buyer for this. She said she is glad it is being worked out because she doesn't think it is really the issue. Attorney Cook said he doesn't think it was a big issue at the time and he doesn't think it is an issue at all anymore. Attorney Cook said the Goldners are very nice people and are neighbors of his and happen to be clients of his but they have been very good neighbors and very cooperative folks and keep their property beautifully.

Alderman Hirschmann asked if the change of class to a Museum would change the assessment at all. Chairman Breault said he had no idea. He said it is something that really doesn't come under the Board's purview. Alan Chong said they are non-profit. Attorney Cook said that was his other job, but the fact is it is a New Hampshire not-profit 501(c)(3) and the property is owned by and used for the purposes of the Museum so the tax issue is a whole different subject. Chairman Breault said it is exempt. Anne Ketterer said it is really a problem for Building Department because it does switch use, technically.

Michael Simoneau said he supports this application and thinks it is a great opportunity for the Currier Museum of Art and also for the City of Manchester.

Jose Lovell said he would like to add that he believes that this application meets all the five criteria. He said he believes it is going to be a benefit to the neighborhood as was discussed. He said he believes it is in the spirit of the Ordinance as we've already got a Museum right down the street and he thinks this is a great addition. Substantial justice would absolutely be done here and he doesn't believe that denying this becoming a Museum is going to help anyone and it would be terrible for the Currier Museum. He doesn't believe that the values of the surrounding properties would be diminished at all and in fact, he thinks it is a benefit there as well. The hardship is with this property being so unique is clear.

Jose Lovell made a motion to grant the following variance count for case ZBA2020-010, 5.10(J)5 Museum which was seconded by Keith Hirschmann.

Yeas: Breault, Lovell, Simoneau, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

4. **ZBA2020-011**
536 South Willow Street, R-1B(PO) Zoning District, Ward 8

James and Susan Fontaine propose to construct an accessible ramp, with a 4' front yard

setback and a 4' street yard setback where 20' is required and maintain a 6' high fence in the front yard where 4' is allowed and seek a variance from sections **6.03(A)** Front Yard Setback (2 counts) and **8.27(B)** Height of Fences of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through March 2, 2020.

Russell Fontaine said he is the brother of James Fontaine. He said he is here representing his brother as he has been in rehab for the last ninety days. He said this home has been in the family for 65 years. Unfortunately, at this stage in their life, they have reached the point where his brother and his wife are handicapped so right now, the only way he can get in and out of the house is with some type of a ramp. He can't get into the house without it and his wife has reached that point as well.

Chairman Breault turned the hearing over to the Board.

Chairman Breault said if the home has been in their possession all those years, they have seen South Willow Street evolve to the point where it went from a two lane road to four lanes plus. Mr. Russell said he was born and brought up at 536 South Willow Street and he lived next door with his grandparents on Laxson Avenue and the lot has shrunk considerably since those days and right now, they are in a situation where unfortunately, there is no way that they can get into the house. They have to build some sort of ramp so they had somebody professional look at it and his brother just got home the other day but he cannot get out of the house. They had to have a professional ambulance team bring him into the house. This is why they are going for the variance for the ramp.

There were no further questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those either in favor of this application to come forward.

Alderman Michael Porter said he is the Alderman in Ward 8. He said he had the distinct pleasure of speaking with Mr. Fontaine about four or five weeks ago and he gave him the entire dissertation of the family home and South Willow. He said he did walk the area and he believes this application meets the five criteria. He said if this application was denied, it would cause an unnecessary hardship. It has no detrimental impact to the area. This is a family that is disabled at this point and they have grown up in this family home and he does support this application wholeheartedly.

Sandra Comire of 500 South Willow Street said she is an abutter to the Fontaine property. She said she has no problem with them having a ramp to get into their home and the only problem she has is they want to put a six foot fence in the front yard or on the side. Recently, a car went through one side of where her driveway is in their property and knocked it down. Presently, they have a five foot fence there. If they can replace the five foot fence that goes across their property like it was, she has no grievance whatsoever. Ms. Comire said she also owns the property at 520 South Willow Street which she rents. She said they have cars that come in and out constantly to go to work and go to school and whatnot so if this is blocked off by a six foot fence, that means that they cannot see down South

Willow Street and you are waiting for an accident to happen.

Chairman Breault invited those opposed to this application to come forward.

Michael Dardis said he lives at 553 South Willow Street which is right next to this property. He said he is only opposed to the fence portion. He said as Ms. Comire said, when they pull out of their driveway, it is a four foot fence right now and they have a problem as it is with a four foot fence. He said with a six foot fence they wouldn't be able to see South Willow Street. He said the driveway bends a little and you pull out onto the sidewalk first and if anyone is coming down that such as kids or a family, you have to butt out almost into the road right now just to see. He said it is a fence which is kind of see through but right now, it they want to put up something even larger than that, it is going to be hard as heck to try to see oncoming traffic. It will be an accident waiting to happen with a large fence.

Michael Landry said for clarification, the fence we are talking about is the fence that is already there. That four foot iron style fence is going to remain. There is no new fence going in at the corner. Mr. Dardis said that was his misunderstanding. He said he it said they were putting in a six foot fence. Mr. Landry said they are going to maintain the six foot fence that has been there. He said it is just barely in the front yard. It is four feet in front of the house and they had to call it a count because there was no permit for it. Mr. Landry said we do not want to see obstructions to a visual path for safe driving either. Mr. Dardis said then he is not opposed to this application.

Chairman Breault said he noticed that the metal fence was damaged and asked Mr. Fontaine if it is his brother's intention to repair that metal fence. Mr. Fontaine said from his understanding, yes. Chairman Breault said for the public's knowledge, Mr. Landry was saying that this is simply to give them permission to maintain that six foot fence that is there and not add any six foot fence. Chairman Breault said his personal feeling is that he didn't see the ramp affecting values in the neighborhood and he didn't think the fence would as well. He said he thinks substantial justice would be done granting this variance based on the applicant's limited ability to get in and out of the home. It would definitely be a hardship for him if he couldn't have the ramp and the public would definitely not gain from the Board denying this.

Alderman Hirschmann said he agrees it would be an extreme hardship for this gentleman. He said it is a family home. It is his opinion that a lot of people in this community get disabled and this ramp is needed and his opinion is they should get their money back for the variance. They shouldn't have to pay for a variance to live in their home.

Anne Ketterer said in regards to the fence, the neighborhood kind of changed around this house and she thinks it is a bit of a hardship with the property being located on South Willow Street which is kind of a main thoroughfare. She said it is not unacceptable to want a fence that is a little bit higher. The fence is set back so that visibility is not impaired. If it were in the way as Mr. Landry stated, that would be a problem, but it is not. She said she sees no problem with allowing them to maintain the fence which they probably want for

privacy along a very busy road.

Jose Lovell said he thinks this meets the five criteria.

Jose Lovell made a motion to grant the following variance counts for case ZBA2020-011, 6.03(A) Front Yard Setback (2 counts) and 8.27(B) Height of Fences which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

5. **ZBA2020-012**
1500 South Willow Street, B-2 Zoning District, Ward 8

Charles F. Cleary, Esq., (Agent) proposes to replace the 202.5 SF main pylon sign on Tax Map 666A, Lot 2 with a 301.75 SF free-standing sign where 200 SF is allowed and maintain a third free-standing sign of 320 SF on Tax Map 666A, Lot 3 where two free-standing signs are allowed and seeks a variance from section **9.09(A)1** Signs (2 counts) of the Zoning Ordinance of the City of Manchester, New Hampshire, as per documents submitted through February 28, 2020.

Attorney Charles Cleary of Wadleigh, Starr and Peters said he was representing the applicant, MNH Mall, LLC, the Mall of New Hampshire which is operated and managed by Simon Properties. Attorney Cleary said with him Jack Toscano, who is the General Manager of the Mall and Jason Fredette of Poyant Signs. He said this is an application for a sign variance at the Mall.

Attorney Cleary said they are seeking two variances essentially on the same grounds for signage at the Mall. The need for the variances are the same. He said as you know, the Mall is a unique establishment. To keep the Mall continuing, open and vibrant, Simon Properties has decided to improve its signage at the property. He said one of the ways they want to improve that signage is to help its retailers out that operate within the Mall and identify the retailers on some of the signage. That keeps the customers not only knowing where the Mall is but who is operating in it and what they are selling for products. He said the first variance is on that main pylon sign which is the entrance sign. He said that sign is 20+ years old. The goal is to update it and there are some visuals that they submitted with their application and the reason the sign is increasing in square footage is the tenant panels that are going between those two posts that runs to the top signage. The top will be replaced with a more aesthetically pleasing sign about the Mall of New Hampshire and then tenant panels identifying the retailers in the Mall which they think will be beneficial to the Mall, the retailers, the customers and the general public.

Attorney Clearly said variance number two is for the large sign along route 293. He said some say that sign has been there since the origins of the Mall but they have lost track of how old that sign is. That sign is 320 SF and they would simply like to maintain it. They use that sign also for advertising tenant identity and products. It is on Route 293 so they are trying to catch eyes of potential customers racing by at high speeds. That is one of the reasons it needs to be that large. That sign is out of the way from any neighboring properties and it has been there for a long period of time. He said their application went through all the criteria of why they think it meets criteria. Basically, the key point is they want to keep this special mall open and vibrant. Every bit of help that the retailers can get is important.

Chairman Breault turned the hearing over to the Board. There were no questions or comments from the Board and the Chairman turned the hearing over to the public. He invited those in favor of this application to come forward.

Alderman Michael Porter said he is here to speak in favor of this application. He said as the Alderman of Ward 8 and a lifelong resident of Manchester, right now we see the malls going by the wayside. The more advertising and the more aesthetically pleasing advertising that they can have to attract business to maintain that mall would be highly beneficial both to the ward, but also to the City. They are probably one of the largest if not the largest tax generator in the City. He said he thinks allowing the variance for this particular project would be greatly beneficial.

Chairman Breault invited those in opposition to this application or those with general comments to come forward. No one came forward to this request and the Chairman turned the hearing back over to the Board.

Keith Hirschmann made a motion to grant the following variance counts for case ZBA2020-012, 9.09(A)1 Signs (2 counts) which was seconded by Joe Prieto.

Yeas: Breault, Lovell, Simoneau, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the variance was granted.

Michael Landry said that concluded the public hearing.

III. BUSINESS MEETING:

1. ADMINISTRATIVE MATTERS:

1. Review and approval of the ZBA Minutes of February 13, 2020.

Anne Ketterer made a motion to approve the ZBA Minutes of February 13, 2020 which was seconded by Michael Simoneau.

Yeas: Breault, Lovell, Simoneau, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the ZBA Minutes of February 13, 2020 were approved.

2. Any other business items from the ZBA staff or Board Members.

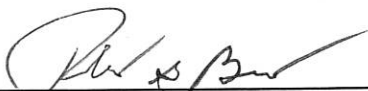
Chairman Breault made a motion to adjourn the ZBA Meeting of March 12, 2020 which was seconded by Vice Chairman Lovell.

Yeas: Breault, Lovell, Simoneau, Prieto, Hirschmann

Nays: None

Upon a unanimous vote, the ZBA Meeting of March 12, 2020 was adjourned.

Full text of the agenda items is on file for review in the Planning & Community Development Department.
The order of the agenda is subject to change on the call of the Chairman.

Attest: 
Robert G. Breault Chairman
Manchester Zoning Board of Adjustment

APPROVED BY THE ZONING BOARD OF ADJUSTMENT: May 7, 2020

- ☒ Without Amendment
☐ With Amendment